

### **REMARKS**

This Amendment is in response to the Office Action dated May 5, 2006. Claims 1-2, 4, 6, 13-14, and 21-23 have been amended. Claims 9 and 12 are canceled. Claims 18-20 are withdrawn. No claims have been added. Claims 1-8, 10-11, 13-17, and 21-23 are presently pending. No new matter has been added. For the reasons discussed in detail below, Applicant submits that the pending claims are patentable over the art of record and respectfully request that the Examiner pass this application to issue.

### **Elections/Restrictions**

Per a telephone conversation with the Examiner, and further in this response, a provisional election is made without traverse to prosecute the invention of Group I having claims 1-17, and 21-23. In addition, claims 18-20 are herein withdrawn.

### **Rejections of Pending Claims**

The Office Action rejected claims 1-3, 7, 17, and 21-23 under 35 U.S.C. §102(e) as being anticipated by Arnett (U.S. Design Patent No. 31965). Claims 4-6 and 13-16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Arnett in view of Cacossa (U.S. Patent No. 5,759,590). Claims 8-12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Campbell (U.S. Patent No. 5,675,860). After carefully considering the cited references and discussion provided in the Office Action, the Applicant submits that the claims in the present application define subject matter that is neither anticipated nor rendered obvious by the cited references and hence are patentable.

For example, claim 1 recites a sealant tool, comprising, in part, a handle and an elongated applicator portion. The elongated applicator portion ... transitioning linearly outward from the handle along a longitudinal axis of the handle and the applicator portion, and ...wherein a thickness of the applicator portion decreases from the longitudinal axis towards lateral edges of the applicator portion, and the external surface of the applicator portion is symmetrically convex. Nowhere,

however, does Arnett disclose or suggest the applicator portion transitioning outward from the handle along a longitudinal axis applicator portion transitioning outward from the handle along a longitudinal axis of the handle and the applicator portion. In fact, per Arnett at lines 27-29, and Figure 1, ‘the blade is at an angle to the handle.’ Thus, Arnett does not disclose or suggest at least this limitation. In addition, as shown in Figure 1 of Arnett, the blade 4 of Arnett’s knife is clearly flat. Therefore, Arnett does not disclose or suggest the applicator portion as having an external surface that is symmetrically convex. Thus, for at least these reasons, Arnett cannot anticipate nor render obvious at least claim 1.

Moreover, claim 21 recites, at least in part, an applicator portion having a thickness that decreases from a maximum thickness along a longitudinal axis of the applicator portion towards the free distal end, and the external surface of the applicator portion is symmetrically convex. Because Arnett does not disclose an applicator portion have an external surface that is symmetrically convex, Arnett cannot anticipate nor render obvious claim 21. Thus, for at least these reasons, claims 1 and 21 should be allowed to issue.

A review of Arnett in combination with Cacossa, and/or Campbell (the combination of which the Applicant denies) also does not anticipate nor render obvious the Applicant’s claims 1 and 21. For example, Cacossa, merely teaches a spackling tool with multiple blades, each having a different width. However, as shown in the figures of Cacossa, none of the multiple blades have an external surface that is symmetrically convex.

Campbell discloses a hand held applicator tool adapted to work a mass of filler material into a gap to form a seal. The tool includes a handle having attached a tapered head, and the head being upturned in the area adjacent the tip. See Campbell’s Abstract. Moreover, Campbell’s disclosed head has a tapered construction so that the hand-held applicator tool is generally arrow-like in shape. See Campbell, Col. 4, lines 52-54. Thus, Campbell does not disclose an elongated applicator portion, as claimed in claims 1 and 21 by the Applicant.

Moreover, Campbell discloses that the head includes a first tip and a second tip. See Campbell, Col. 4, lines 55-63. Thus, Campbell discloses more than a single tip, unlike the Applicant's claimed invention. Campbell further discloses that the tips have different radii of curvature (See Campbell, Col. 5, lines 1-9), and that "[t]his is an important feature of the present invention...." See Campbell, Col. 5, lines 12-14. Thus, not only does Campbell not disclose or suggest having a single tip, but Campbell actually teaches away from the use of a single tip.

Furthermore, as shown in Campbell's figures 2-6, Campbell's disclosed tool includes a first working surface 58 and a second working surface 68, both of which are generally concave in configuration. See Campbell, Col. 5, lines 56-67. Thus, Campbell fails to disclose or suggest that the external surface of the applicator portion is symmetrically convex.

In addition, as disclosed in Campbell's figures 2-6, Campbell's disclosed tool includes a tapered head having a ramped edge area that is upturned. See Campbell, Figure 5, area 59, and area 69; and Col. 5, lines 31-39. This is unlike the Applicant's claimed invention which specifically indicates in claim 1, that the thickness of the applicator portion decreases from the longitudinal axis towards lateral edges of the applicator portion. Similarly, claim 21 recites that the thickness that decreases from a maximum thickness along a longitudinal axis of the applicator portion towards the free distal tip. Because Campbell discloses a thickness that decreases and then increases, Campbell cannot render obvious claims 1 and 21.

Therefore, lacking the disclosure necessary to anticipate or render obvious the claimed invention, Arnett in combination with Cacossa and/or Campbell (the combination of which the Applicant denies) does not anticipate nor support a *prima facie* rejection of at least claims 1 and 21, and hence should be withdrawn.

In addition, Claims 2-8, 10-11, 13-17; and 22-23 depend from Claims 1, and 21, respectively. Therefore, for at least the same reasons as their respective independent claims, each of the dependent claims is also allowable. Thus, Applicants respectfully submit that Claims 1-8, 10-11, 13-17, and 21-23 are in condition for allowance, and should be allowed to issue.

**CONCLUSION**

By the foregoing explanations, Applicant believes that this response has responded fully to all of the concerns expressed in the Office Action, and believes that it has placed each of the pending claims in condition for immediate allowance. Early favorable action in the form of a Notice of Allowance is urged. Should any further aspects of the application remain unresolved, the Examiner is invited to telephone Applicant's attorney at the number listed below.

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Respectfully submitted,

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